

LLOYD COCHRAN

IBLA 80-887

Decided February 3, 1981

Appeal from decision of the Idaho State Office, Bureau of Land Management, declaring five mining claims (I MC 24930 through 24934) abandoned and void.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Affidavit of Assessment Work or Notice of Intention to Hold Mining Claims

The owner of unpatented mining claims located prior to Oct. 21, 1976, must file a copy of proof of annual assessment work performed during the preceding assessment year on or before Oct. 22, 1979, or the claims are properly declared abandoned and void under 43 CFR 3833.4.

APPEARANCES: Lloyd Cochran, pro se.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

On August 1, 1980, the Idaho State Office, Bureau of Land Management (BLM), issued a decision declaring the Upper Siegal Creek Nos. 1 through 5 placer mining claims (I MC 024930 through 024934) abandoned and void because the owners had failed to file proof of annual assessment work or notice of intention to hold these claims on or before October 22, 1979. Lloyd Cochran (appellant), one of the owners of these claims, filed a timely notice of appeal of this decision.

[1] Under 43 CFR 3833.2-1(a), the owner of unpatented mining claims such as these which were located on or before October 21, 1976, must file evidence of annual assessment work performed during the preceding assessment year or, where appropriate, notice of intention to hold the claim, with the local office of BLM on or before October 22, 1979. The record shows that appellant filed copies of the original

notice of location prior to this deadline, but does not contain copies of proof of assessment work performed or notices of intention to hold these claims.

Appellant asserts that he recorded proofs of labor for these claims with the county recorder in July 1979 and sent copies to BLM from there. BLM advises us that it has been unable to locate these copies and that county recorders do not normally mail copies of documents to it. Accordingly, in the absence of any evidence so showing, we conclude that no such filings were received at BLM.

Under 43 CFR 3833.4(a), the failure to file an instrument required by 43 CFR 3833.2-1 within the time prescribed therein shall be deemed conclusively to constitute an abandonment of the claim, and it shall be void. Accordingly, BLM properly declared these claims abandoned and void.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Edward W. Stuebing

Administrative Judge

We concur:

Douglas E. Henriques
Administrative Judge

James L. Burski
Administrative Judge

